



**media, entertainment & arts alliance**  
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20 June 2011

Ms Christine McDonald  
Secretary  
Standing Committee on Finance and Public Administration

By email

**Re: Inquiry into superannuation claims of former and current Commonwealth Public Service Employees**

Dear Ms McDonald,

Thank you for the opportunity to provide a further submission concerning the above matter.

As indicated in our earlier submission, the Alliance believes that all former and current employees of the ABC who have a claim for superannuation entitlements arising under the CSS scheme, (now ARIA) should be able to do so through an administrative process.

The Senate Committee's attention is respectfully drawn to the Superannuation Act 1992 which originally restricted membership to persons employed in a permanent capacity. In that capacity, membership of the Fund was mandatory<sup>1</sup>.

Since 1942, various amendments to this Act have been effected allowing temporary employees of the Commonwealth to access the scheme provided that certain criteria were met.

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***The Superannuation Act 1992 requires at Part III—Contributions Division 1—Contributions by employees***

***19 Commencement and cessation of contributions***

***(1) Every employee (not being a State employee within the meaning of Part VII) shall (except as otherwise provided in this Act) contribute to the Fund from such date as the Governor-General notifies in the Gazette, or, in the case of an employee whose employment commences after the date so notified, as from the prescribed date***



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Initially, this concerned a requirement that an employee's employment continue for an indefinite period. Later, that criterion was ultimately relaxed to permit directions to issue to enable temporary employees to contribute to the fund, including where the Commissioner of Superannuation:

- 1) was satisfied that an employee had been employed for 12 months and it was likely that the employee would continue as a temporary employee for a further 3 years,
- 2) was satisfied that the temporary employee would become a permanent employee within 12 months of the date of request,
- 3) directed that a temporary employee employed under a contract for not less than one year is eligible.

The Alliance is aware that the CPSU, who has coverage of employees other than Journalists at the ABC, is in the process of providing their own submission to the Senate Inquiry.

That Submission supports the thrust of the Alliance's position.

The CPSU's submission, among other matters, identifies that the ABC made extensive use of temporary and exempt employment provisions for "Trainees". The "Trainees" who responded to the Survey have advised they were informed they were ineligible to join the Superannuation scheme. For employees not engaged in traineeships (e.g. employed in areas such as staging and set construction) their recollection was that they were provided with no advice at all. Others have advised that on conversion to permanent employment they were still not admitted to the scheme.

Despite the claim made by the Department of Finance that there does not appear to be a systemic problem within the Commonwealth, whereby incorrect or misleading advice (which should include no advice) was generally being provided, clearly this is not the experience of either CPSU or Alliance members who have contacted their Union in this regard.

The Alliance's case histories subject to our earlier submission, further demonstrate that the employment of these ABC employees in various circumstances was full-time. For all intents and purposes, these employees were permanent employees.

### Next Steps

Our members had an entitlement to a superannuation payment, they did not receive that entitlement and they are now suffering as a result. The approach should be, rather than committing further Commonwealth money through the Department of Finance's endless file searches trying to ascertain who said what to whom including up to 40 years ago, which is difficult to establish in the best of circumstances (and the Department agrees), how can we now expedite the claims process?

Firstly, as it proposed to deal with these types of claims administratively, the statute of limitations should not apply.



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Secondly, that appropriate steps are taken by the relevant authority and by ARIA to ensure the ARIA Fund can accommodate current and future superannuation claims, including claims made by the families of deceased Claimants, in an expedient manner.

Thirdly, the current form used by the Department of Finance should be re-drafted to request/provide the following information:

- the Claimant's personal and employment history details,
- an authority to access the claimant's employment records (as they relate to the Claimant's employment history including information concerning their employment categories of temporary, full-time, etc and what breaks have occurred in employment etc). Both the Alliance and CPSU believe that these types of records are generally accessible at the ABC. As such, the time period to obtain these records should be set at 21 days,
- a copy of these records should be sent to the Claimant for further comment, if required,
- a statutory declaration to enable the Claimant to provide any details they wish to rely upon to support their claim, (this may include circumstances where the employer's records are incomplete),
- An advice that once the employment details have been confirmed, details of the Claim and an actuarial estimates report will be sent to ARIA for actioning and a copy provided to the Claimant,
- An advice that at all times the Claimant will be entitled to seek independent advice, including financial advice concerning their claim.

On the basis of what the Alliance has put, the Alliance believes that there should be few claims at the ABC which would result in a dispute. Where a dispute does arise, the matter should be resolved through mediation involving a representative from the organisation opposing the claim, the Claimant's representative and an independent third party to resolve the matter, (appointed by agreement between the parties).

The Alliance would be pleased to provide any further clarification concerning the contents of this letter. I can be contacted on telephone 02) 9333 0940 or by email at [chris.warren@alliance.org.au](mailto:chris.warren@alliance.org.au) should you wish to discuss any matter further.

Yours faithfully

Chris Warren  
Federal Secretary